

David C. Hovda et al  
Application No.: 09/963,736  
Reply to Office Action mailed 06/13/2005  
Page 6 of 6

Atty Docket: E-5-2

REMARKS

Claims 26-46 were pending in the Application. Claim 47 is new and is based on originally filed text, for example the text at page 13, line 13 of the disclosure. Thus, Claims 26-47 are pending.

The Office Action cited Claim 44 for improperly depending on a canceled claim. Also, the Office Action requested that the Applicant either file a Terminal Disclaimer or argue the impropriety of the non-statutory double patenting rejection of the claims over Claims 1, 14, 17, 18, 20, and 40-45 of U.S. Patent No. 5,697,909.

Claim 44 is herewith amended to depend from Claim 26, and to distinctly claim the apparatus as set forth therein.

A Terminal Disclaimer is filed herewith in compliance with 37 CFR 1.321. Authorization is hereby given to charge Account No. 50-0359 for the Terminal Disclaimer fee under 37 CFR 1.20(d).

Accordingly, reconsideration and allowance of the Application is respectfully requested. If an issue remains outstanding and a telephone conference would expedite prosecution, kindly telephone the undersigned at (408) 736-6486.

Respectfully submitted,

  
Raj Vaipershad  
Attorney for Applicant  
Reg. No. 44,168

ArthroCare Corporation  
680 Vaqueros Ave.  
Sunnyvale, CA 94085-3523  
(408) 736-0224